

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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REGINALD MCMILLAN,

Plaintiff,

-against-

THE CITY OF NEW YORK, DET. JAMES
HEMMER, SGT. SARA TALLAKSEN, DET.
THOMAS BRASCH, DET. MICHAEL DURKIN,
DET. "JOHN" KELLY, DET. "JOHN" SANCHEZ,
DET. "JOHN" ANDRADE, and P.O.'s JOHN and
JANE DOE #1-10, individually and in their official
capacities, (the names John and Jane Doe being
fictitious, as the true names are presently unknown).

Defendants.
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**STIPULATION
AND ORDER OF
SETTLEMENT
AND DISMISSAL**

04 CV 3990 (FB) (RML)

WHEREAS, plaintiff Reginald McMillan commenced this action by filing a complaint on or about September 15, 2004, alleging violations of his civil rights under federal and New York State laws; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, defendant City of New York served plaintiffs respectively with a Rule 68 Offer of Judgment on June 19, 2006; and

WHEREAS, plaintiff accepted defendant City of New York's Rule 68 Offer of Judgment on June 22, 2006;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. All claims in the above-referenced action asserted by plaintiff are hereby dismissed, with prejudice, and without costs, expenses, or fees except as specified in paragraphs "2," "3," and "5" below.

2. Defendant City of New York hereby agrees to pay plaintiff the sum of Twenty Thousand and One Dollars (\$20,001.00), plus reasonable attorneys' fees, expenses, and costs, up to the date of the Rule 68 Offer, in full satisfaction of all claims by plaintiff against defendants. In consideration for the payment of this sum, plaintiff agrees to dismissal of all of the claims brought by him against the defendants and to release all defendants, any present or former employees or agents of the City of New York, the New York City Police Department, and any other agency of the City of New York, and the City of New York, from any and all liability, claims, or rights of action arising from and contained in the complaint in this action.

3. Plaintiff has assigned his rights to attorneys' fees, expenses, and costs to his attorney, Rose Weber, Esq.

4. Plaintiff shall execute and deliver to the defendants' attorney all documents necessary to effect this settlement including, without limitation, a General Release based on the terms of paragraphs "2" and "3" above and an Affidavit of Concerning Liens.

5. The City of New York hereby agrees to pay counsel for plaintiff, Rose Weber, Esq., the sum of Nineteen Thousand Five Hundred Dollars (\$19,500.00), as reasonable attorneys' fees, expenses, and costs to the date of the Offer of Judgment referenced in paragraph "2" above. Counsel for plaintiff hereby agrees and represents that no further claim for attorneys' fees, costs, or expenses arising out of this action shall be made by or on behalf of plaintiff up to and including the date of the Offer of Judgment referenced in paragraph "2" above in any application for attorneys' fees, costs, or expenses at any time in the future.

6. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations

or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

7. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or the New York City Police Department.

8. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
August 11, 2006

Ms. Rose Weber, Esq.
Attorney for Plaintiff
Law Office of Rose M. Weber
225 Broadway, Suite 1608
New York, NY 10007

By: Rose M. Weber
ROSE WEBER, ESQ. (RW 0515)

SO ORDERED:

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street, Room 3-221
New York, New York 10007
(212) 442-8600

By: Sabrina Tann
SABRINA TANN (ST 2552)
Assistant Corporation Counsel

U.S.D.J.